

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DEWAYNE DONNELL WILLIAMS §
VS. § CIVIL ACTION NO. 1:06-CV-365
DIRECTOR, TDCJ-CID §

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Dewayne Donnell Williams, a prisoner confined at the Boyd Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the petition as barred by the statute of limitations.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation.

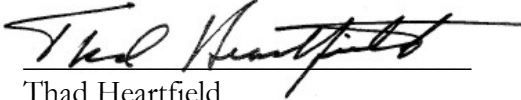
The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). Citing *Carey v. Saffold*, 536 U.S. 214 (2002) and *Evans v. Chavis*, __ U.S. __, 126 S. Ct. 846 (2006), petitioner contends that the limitations period is tolled from the date the trial court ruled on his state application until it was filed in the Texas

Court of Criminal Appeals. Although petitioner correctly states the law, he apparently misunderstands its application to him. In this case, the magistrate judge recommended tolling the limitations period from the date it was filed in the trial court until the date it was denied by the Texas Court of Criminal Appeals. However, the petition is still untimely. Therefore, after careful consideration, the court concludes the objections are without merit.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED this the 17 day of **November, 2006**.



Thad Heartfield
United States District Judge